

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

SAMUEL YOUMANS, JR.,)	
)	
Plaintiff,)	
)	
v.)	CV417-058
)	
JOHN T. WILCHER, Sheriff,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Samuel Youmans, Jr., an inmate at Chatham County Detention Center, sues Sheriff John T. Wilcher pursuant to 42 U.S.C. § 1983. Doc. 3. The Court granted his application to proceed *in forma pauperis* (IFP), and directed him to return the necessary forms and provide additional information about his litigation history. Doc 5. He returned the forms. Docs. 6 & 7. Despite that partial compliance, his failure to *fully* comply warrants dismissal.

Youmans did not disclose any prior litigation, *see* doc. 1 at 1; doc. 3 at 1 (Amended Complaint), but the Court found another action filed by a “Samuel Youmans.” Doc. 5 at 5. It therefore directed him to submit “a sworn statement explaining his prior litigation history with this Court,

including whether he filed *Youmans v. Chisolm*, No. CV412-002, or *any other federal case*,” within 30 days. Doc. 5 at 5. The Order expressly warned that failure to comply would result in a recommendation of dismissal. *Id.* Despite that warning, thirty days have passed (on May 8, 2017) and he has not submitted the required statement.

Accordingly, Samuel Youmans, Jr.’s Complaint should be **DISMISSED** for failure to comply with the Order or, alternatively, abandonment grounds. See Fed. R. Civ. P. 41(b) (authorizing district court to dismiss an action for failure to obey a court order); L.R. 41.1(c) (authorizing district court to dismiss for lack of prosecution); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (courts have the inherent authority to dismiss claims for lack of prosecution); *Collins v. Lake Helen, L.P.*, 249 F. App’x 116, 120 (11th Cir. 2007) (“[D]istrict court[s] possess the inherent power to police [their] docket[s]” and to prune out those cases left to languish by their litigants).

Meanwhile, Youmans must pay his \$350 filing fee. His furnished account information shows that he has had a \$113.83 average monthly balance and \$64.16 in monthly deposits in his prison account during the six months prior to filing his Complaint. Doc. 7 at 1. He therefore owes

a \$22.77 initial partial filing fee. *See* 28 U.S.C. § 1915(b)(1) (requiring an initial fee assessment “when funds exist,” under a specific 20 percent formula). His custodian (or designee) shall set aside 20 percent of all future deposits from his account and forward same to the Clerk each time the set aside amount reaches \$10.00, until the balance of the Court’s \$350.00 filing fee has been paid in full.

The Clerk is **DIRECTED** to send this Report and Recommendation (R&R) to Youmans’ account custodian immediately. In the event he is transferred to another institution, his present custodian shall forward a copy of this R&R and all financial information concerning payment of the filing fee and costs in this case to his new custodian. The balance due from Youmans shall be collected by the custodian at his next institution in accordance with the terms of this R&R.

This R&R is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court’s Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned “Objections to Magistrate Judge’s Report and Recommendations.” Any request for additional time to file objections

should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; see *Symonett v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. U.S.*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO REPORTED AND RECOMMENDED, this 12th day of May, 2017.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA